Le VICE-PRESIDENT, faisant fonction de président : Veuillez vous asseoir. La Cour se réunit maintenant afin d'entendre les conclusions de la Belgique dans l'affaire portée par la Yougoslavie contre la Belgique, et j'ai l plaisir de donner la parole à l'agent du gouvernement de la Belgique, Madame Raymonde Foucart-Kleynen.

Mrs. FOUCART-KLEYNEN: Mr. President, Members of the Court, it is a great honour for me to appear before the Court as Agent for the Government of the Kingdom of Belgium.

Allow me to introduce the members of my legal team who will speak on behalf of the Kingdom of Belgium: Mr. Johan Verbeke, Deputy Director General at the Ministry of Foreign Affairs, as Deputy Agent for the Government, and Mr. Rusen Ergec, Professor at the Free University of Brussels and Member of the Brussels Bar, as Counsel.

The arguments which will be put forward by our Counsel concern first the lack of prima facie jurisdiction of the Court, second the urgency of the suggested measures, third the absence of any apparent basis for the alleged violations and the necessity for the use of force, while the last ground will examine the content of the provisional measures sought. With the Court's permission, I shall give the floor to our counsel, Mr. Ergec.

Le VICE-PRESIDENT, faisant fonction de président : Je vous remercie. Je passe la parole à Monsieur Rusen Ergec.

Mr. ERGEC: Thank you, Mr. President. Members of the Court, we all heard and listened carefully to the arguments put forward this morning by the applicant State. One thing stood out: the statement of the facts. In our opinion, this statement of the facts contained many errors and the context of the armed intervention was seriously distorted. For this reason, let me commence with a short introduction with emphasis on the facts.

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I. FACTS AND PAST HISTORY

Background

May I remind you that in 1974 the province of Kosovo was granted wide-ranging autonomy, but that in 1989 this autonomy was abruptly abolished by Mr. Milosevic's régime. In 1992, as you know, the inception of the Federal Republic of Yugoslavia was proclaimed, and at the beginning of 1998 events began to accelerate: clashes between the Kosovo Albanians and the Serbs became more and more frequent. The massacres and the ethnic cleansing began.

It was at this point that the Security Council became involved. Allow me to recall the three resolutions.

Security Council resolution of 31 March 1998 - resolution 1160 (1998)

The Security Council resolution of 31 March 1998 - resolution 1160 - was taken under Chapter VII of the Charter of the United Nations. The resolution noted a threat to international peace and security and condemned the use of excessive force by Serbian police forces against civilians and peaceful demonstrators in Kosovo.

The Security Council urged a political solution to the question, and demanded substantially increased autonomy for Kosovo. The resolution contained conditions very similar to those subsequently laid down by NATO: the initiation of meaningful, peaceful dialogue; the withdrawal of police units and military and paramilitary forces; allowing humanitarian organizations to gain access to the areas where refugees were in distress; a mission to Kosovo by the United Nations High Commissioner on Human Rights.

The Federal Republic of Yugoslavia ignored the resolution. The situation continued to deteriorate.

Security Council resolution of 23 September 1998 - resolution 1199 (1998)

There was the report of the Secretary-General, written pursuant to the Security Council resolution which I quoted just now. Following on from the report of the Secretary-General, a second resolution was adopted, resolution 1199 (1998), the second resolution of 23 September 1998.

Once again, the indiscriminate use of force was condemned. However, a very important form of wording was used in the resolution. The Security Council was alarmed, let me emphasize, "at *the impending humanitarian catastrophe*". This is very important for our legal reasoning later in this statement.

The impending humanitarian catastrophe noted by the Security Council

Still under Chapter VII of the Charter, the Security Council reiterated the demands made in the previous resolution.

Then came the report of the Secretary-General of the United Nations two months later, pursuant to that resolution on the situation in Kosovo. What did the Secretary-General of the United Nations say? He said that fighting was continuing and that the Federal Republic of Yugoslavia continued to ignore the resolution, in flagrant breach of the previous resolution. The Secretary-General noted that a further 20,000 people had been displaced, that increasingly civilians had become the main target in the conflict and that there were still 200,000 displaced people inside Kosovo, as recorded by the High Commissioner for Refugees.

Agreements of October 1998

Thus the situation deteriorated. Then came the agreements of October 1998, which were mentioned this morning: *(a)* Milosevic-Holbrooke Agreement (S/1998.953); *(b)* Agreement between NATO and the Federal Republic of Yugoslavia; *(c)* Agreement between NATO and the Federal Republic of Yugoslavia; *(d)* Agreement between the Federal Republic of Yugoslavia and the Organization for Security and Cooperation in Europe. The Secretary-General of the United Nations nevertheless noted, in the reports quoted in the memorandum which we filed, that there were *"alarming signs that there was a risk of the situation deteriorating"*.

Security Council resolution of 24 October 1998 - resolution 1203 (1998)

And it was following this observation that the third resolution was taken: Security Council resolution 1203 of 24 October of the same year. Still under Chapter VII of the Charter: the finding of a threat to international peace and security arising from the situation in Kosovo. Once again, that very important form of wording appeared in the resolution, *the impending humanitarian catastrophe*; the Security Council expressed its alarm at the impending humanitarian catastrophe.

The Security Council recalled that the Federal Republic of Yugoslavia had undertaken publicly to bring negotiations for a political settlement of the question to a successful conclusion, and it reiterated its previous resolutions which had been ignored by the Federal Republic of Yugoslavia.

The situation became worse. In January the massacres resumed. There was a new report of the Secretary-General, dated 29 January, two months before NATO's armed intervention. What did the Secretary-General say?

He stated that three resolutions had been addressed to the Federal Republic of Yugoslavia and urged it to meet its commitments. Yet the massacres continued and on 29 January the Secretary-General of the United Nations

noted a major change in the character of the violence in Kosovo. What was happening? The massacres were becoming generalized.

From that time onwards they covered almost the entire territory of Kosovo and above all they began to target the élite, the intelligentsia, all the intellectuals who advocated a spirit of openness and tolerance became the target of a campaign of fear; watch out, they were told: the population as a whole is being terrorized, including the elite and the intellectuals.

Massacre of Racak

Then came the massacre at Racak, the sombre event which shocked the conscience of the civilized world. On 15 January 1999, 45 Kosovar civilians were killed. The Yugoslav troops (paramilitary forces) entered the village on 15 January and when they left the next day, 16 January, 45 civilians, including women and children, were found massacred. An autopsy mission established that responsibility for the massacre lay with the military or paramilitary forces of the Federal Republic of Yugoslavia.

Position of NATO

On 30 January, the NATO Council expressed the view that the Kosovo crisis remained a threat to peace, and NATO called on the Parties to start negotiations at Rambouillet; at the same time, in view of the catastrophic deterioration in the situation, it authorized its Secretary-General to order airstrikes on military - I stress, military - objectives in the Federal Republic of Yugoslavia.

Contact group

The Rambouillet negotiations were then getting under way. You know what happened at Rambouillet; you know that the Kosovars signed the agreement and that the Federal Republic of Yugoslavia refused to do so.

Report from the United Nations Secretary-General

This brought us to the brink of armed intervention. On 17 March 1999, the United Nations Secretary-General issued a further report in which he stated that there had been deliberate killings of civilians, summary executions, brutality to prisoners and kidnappings. On 17 March the Secretary-General's report stated that 211,000 persons were displaced within Kosovo, and put at 25,000 the number of persons displaced to Montenegro. He observed that the Serbian forces were still flagrantly violating the Security Council resolutions referred to above.

Action by NATO

On 24 March 1999, the NATO Secretary-General, using powers properly conferred, started the intervention. With what objectives? - peace, multiethnicity, democracy for a Kosovo in which all the members of the Kosovo community, whatever their racial, ethnic or religious origin, can live in peace, in compliance with fundamental human rights. The conditions set out by NATO for halting the airstrikes that had begun were the following, and they were to remain unchanged, subject to the decisions taken at the G-8 summit, which I shall describe below:

(i) end of all military action in Kosovo;

(ii) withdrawal of military forces;

(iii) acceptance of an international military presence in Kosovo;

(iv) return of all refugees and displaced persons to their homes; humanitarian aid organizations to be allowed access to these refugees;

(v) assurances given by the Federal Republic of Yugoslavia of its will to achieve a political settlement of the crisis.

If you look carefully at these conditions you will find that they are quite close, I repeat, to the conditions which had already been stipulated by the Security Council.

Rejection of the resolution proposed to the Security Council by the Russian Delegation

There is one last salient point to which I wish to bring your attention: on 26 March, two days after operations started, the Russian Representative laid before the Security Council a draft resolution condemning NATO armed intervention as contrary to the United Nations Charter. That proposal was thrown out by twelve votes to three, and if you read the discussions preceding the adoption of the relevant resolution you will find this said: "Immediate cessation of NATO action would once again send the wrong message to President Milosevic, which could well prolong bloodshed in Kosovo".

Further systematic, large-scale and flagrant violations of human rights in Kosovo

The systematic, large-scale and flagrant violations of human rights in Kosovo continued. I may cite a recent report from the Human Rights Commission released in April, which describes extensive ethnic cleansing.

Position of the G-8

Then came the G-8 summit. The decision was taken on 6 May. G-8 comprises, as you know, not only some of the NATO powers but also Russia and Japan. It adopted a decision for a peaceful settlement of the conflict largely in line - give or take minor discrepancies - with the substance of the conditions laid down by NATO.

I have summarized the facts. What do these facts signify? Contempt for decisions taken by the highest international agencies; time-wasting manoeuvring; and a systematic policy of purging and repression of the Albanian minority in Kosovo, to say nothing of other serious violations of human rights committed by the Yugoslav authorities.

II. The request for provisional measures

I turn now to the attitude of the Government of the Kingdom of Belgium to the problem of provisional measures. The Kingdom of Belgium takes the view that the conditions for the indication of provisional measures have not been met.

In the first place, your Court has no prima facie jurisdiction.

Secondly, the urgency of the matter has not been established.

Thirdly, the imminence of irreparable harm and the risk of aggravation of the dispute have not been established either.

Lack of prima facie jurisdiction

I begin with the question of the Court's prima facie jurisdiction. The request is based on Article 36, paragraph 2, of your Statute. But, I hardly need to say this, Mr. President, the Court's jurisdiction is governed by Article 36, paragraph 2, of your Statute. And the declaration provided for in that paragraph can be made only by States which are *ipso jure* full parties to your Court's Statute, as provided in Article 93 of the United Nations Charter. The crucial question arising, in order to determine whether or not this recognition of your Court's jurisdiction is valid, is the issue of whether the Federal Republic of Yugoslavia can claim to have retained the status of United Nations Member enjoyed by the former Federative Socialist Republic of Yugoslavia. There is no doubt whatever that the answer is "no". Allow me to recall briefly the background.

When the Federative Socialist Republic of Yugoslavia broke up, all the other Member States - Slovenia, Croatia, Bosnia-Herzegovina and Macedonia - applied for United Nations membership because these republics took the view that none of them could claim continuity with the former State of Yugoslavia. Thus they quite rightly took the view that they were the successor States of the former Federative Socialist Republic of Yugoslavia and that they accordingly needed to apply for membership of the United Nations. They were

admitted, but the Federal Republic of Yugoslavia itself made no such application. Why? The Federal Republic of Yugoslavia has always taken the view that it was the sole successor of the former Federative Socialist Republic of Yugoslavia. Does the international community agree? Does the United Nations agree? No. On 22 September 1992, in a very important resolution (47/1) the UN General Assembly voted overwhelmingly, by 127 votes to 6, with 26 abstentions, for a resolution recommended by the Security Council which I quote, all these resolutions can be quoted. What does the General Assembly say in this resolution? It says that the Federal Republic of Yugoslavia cannot claim the membership status enjoyed by the former Republic of Yugoslavia. Thus, to take a seat at the United Nations, of which it is not a Member, it "should apply for membership". The resolution is quite clear.

On 28 October 1996, the permanent representatives of Slovenia, Croatia, Bosnia-Herzegovina and Macedonia again wrote to the United Nations Secretary-General stating that the Federal Republic of Yugoslavia could not claim the succession of the former Socialist Republic (Doc. A/51/564-S/1996/885, quoted by Mr. Wood). On this point, the Member States of the European Union, and of the Islamic Conference, and the United States, all agreed with the view taken by the United Nations bodies.

Also, Mr. President, Members of the Court, the clearest evidence that the Federal Republic of Yugoslavia is not the successor of the former Yugoslavia is provided by the Federal Republic of Yugoslavia itself in a declaration made by that country's Foreign Minister on 22 September 1992 to the General Assembly, when he said: "I hereby formally request membership in the United Nations on behalf of the new Yugoslavia, whose Government I represent" (Doc. A/47/PV.7,p. 149, quoted by Mr. Wood).

If you are already a Member, why apply for membership? Here, the Foreign Minister recognized, as demanded by the Assembly General, that an application had to be made. But merely applying does not suffice; what is required is that the relevant United Nations bodies decide on the basis of Article 4 of the Charter to admit the Federal Republic of Yugoslavia to the Organization. No such decision has ever been taken, and the relevant United Nations bodies - the Security Council and the General Assembly - have never altered their 1992 decision, to the effect that the Federal Republic of Yugoslavia cannot claim to be the successor of the former Yugoslavia. Specialized international agencies agree: the Universal Postal Union and the Governing Body of the International Labour Office also agree, so does the World Health Organization. Our conclusion must be that, as the Federal Republic of Yugoslavia is not a Member of United Nations, it is not party to your Statute either, and, this being so, it could not properly, under Article 36, paragraph 2, of that instrument, declare that it recognizes your Court's jurisdiction. Manifestly, in the absence of such recognition, you have no jurisdiction to entertain this request.

The alleged jurisdiction of your Court under Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide

The second head of the Court's jurisdiction relied on by the Federal Republic of Yugoslavia is Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. President, Members of the Court, this is nothing but a procedural device and the Kingdom of Belgium will show you why. It is a blatant abuse of the procedure. Before you can entertain a request or declare the Court prima facie competent on the basis of this ground of jurisdiction, it is necessary that the issue raised concerns the interpretation or the application of the Convention. You said so yourselves in your Order of 8 April 1993: you stated that the Court has jurisdiction:

> "to the extent that the subject-matter of the dispute relates to 'the interpretation, application or fulfilment' of the Convention, including disputes 'relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III' of the Convention" (para. 26).

Conclusion as to the jurisdiction of your Court

Thus the issue in the dispute must pertain to the scope of the Convention, which is determined by the concept of "genocide" [acts of genocide]. To charge Belgium with genocide in this case is an abuse of the Court's procedure and lacking in any serious basis. For genocide to exist - and the Convention itself defines it - there must be intent, the intent to destroy some or all of an ethnic, racial or religious population. I defy the Federal Republic of Yugoslavia to produce any evidence whatever of such intention, real or apparent. No such evidence

has been offered. It is quite clear that the situation lies outside the scope of the Genocide Convention and consequently, prima facie, there is not the slightest ground of jurisdiction here either. It is perfectly clear that you do not have jurisdiction on the basis of this Convention.

The issue of urgency

The alleged urgency of the matter is contradicted by the facts: this morning the applicant State - I was listening carefully - itself recognized this. We were told that "as early as October 1998, NATO had threatened the use of force". This is true. The parties agree on this. But why then was the Court's jurisdiction not recognized then and provisional measures already requested? The threat of force is, *ex hypothesi*, just as illegal as the use of force. Why wait?

On 30 January 1999, the NATO Council, I may remind the Court, publicly authorized its Secretary-General to launch air strikes; still your Court's jurisdiction was not recognized. The air strikes were in fact launched on 24 March, your Court's jurisdiction was still not recognized. Only at the end of April, with the system under mounting pressure, did the Yugoslav authorities, with a purely tactical manoeuvre, decide to recognize your Court's jurisdiction in the hope of securing temporary relief.

The absolute and compelling need for the current armed operation

As regards the intervention, the Kingdom of Belgium takes the view that the Security Council's resolutions which I have just cited provide an unchallengeable basis for the armed intervention. They are clear, and they are based on Chapter VII of the Charter, under which the Security Council may determine the existence of any threat to international peace and security. But we need to go further and develop the idea of armed humanitarian intervention. NATO, and the Kingdom of Belgium in particular, felt obliged to intervene to forestall an ongoing humanitarian catastrophe, acknowledged in Security Council resolutions. To safeguard what? To safeguard, Mr. President, essential values which also rank as *jus cogens*. Are the right to life, physical integrity, the prohibition of torture, are these not norms with the status of *jus cogens*? They undeniably have this status, so much so that international instruments on human rights (the European Human Rights Convention, the agreements mentioned above) protect them in a waiver clause (the power of suspension in case of war of all human rights except right to life and integrity of the individual): thus they are absolute rights, from which we may conclude that they belong to the *jus cogens*. Thus, NATO intervened to protect fundamental values enshrined in the *jus cogens* and to prevent an impending catastrophe recognized as such by the Security Council. There is another important feature of NATO's action: NATO has never questioned the political independence and the territorial integrity of the Federal Republic of Yugoslavia - the Security Council's resolutions, the NATO decisions, and the press releases have, moreover, consistently stressed this. Thus this is not an intervention against the territorial integrity or independence of the former Republic of Yugoslavia. The purpose of NATO's intervention is to rescue a people in peril, in deep distress. For this reason the Kingdom of Belgium takes the view that this is an armed humanitarian intervention, compatible with Article 2, paragraph 4, of the Charter, which covers only intervention against the territorial integrity or political independence of a State.

There is no shortage of precedents. India's intervention in Eastern Pakistan; Tanzania's intervention in Uganda; Vietnam in Cambodia, the West African countries' interventions first in Liberia and then in Sierra Leone. While there may have been certain doubts expressed in the doctrine, and among some members of the international community, these interventions have not been expressly condemned by the relevant United Nations bodies. These precedents, combined with Security Council resolutions and the rejection of the draft Russian resolution on 26 March, which I have already referred to, undoubtedly support and substantiate our contention that the NATO intervention is entirely legal. Allow me to remind the Court of the three features of the intervention which have been noted by the international authorities, in this case the Security Council; there was a humanitarian catastrophe, recognised by the Security Council, imminent danger, i.e., a situation constituting a threat to peace as noted by the Security Council resolution; and the power responsible for this - as is made clear in the three Security Council resolutions - is the Federal Republic of Yugoslavia.

The intervention is of a quite exceptional character, prompted by entirely objective criteria. In the circumstances do we need to add another consideration, the tendency in contemporary international law towards a steadily greater protection of minorities? We are accused of encroaching on sovereignty, but the Government of the Kingdom of Belgium would like to quote a passage from a speech given by

Mr. Kofi Annan, United Nations Secretary-General, on 30 April last, at the University of Michigan. Mr. Annan said "no Government has the right to hide behind national sovereignty in order to violate the human rights or fundamental freedoms of its peoples", and headded a very important point, "Emerging slowly, but I believe surely is an international norm against the violent repression of minorities that will and must take precedence over concerns of State sovereignty".

NATO's action has had and still has a further dimension. The aim is to protect a distressed population in the throes of a humanitarian catastrophe, but there is also a need to safeguard the stability of an entire region, for the Security Council resolutions have also noted that the behaviour of the Federal Republic of Yugoslavia in Kosovo was generating a threat to international peace and security by impairing the stability of the whole area. This is a case of a lawful armed humanitarian intervention for which there is a compelling necessity. And, Mr. President, Members of the Court, if we have failed to convince you that what has been taking place is armed humanitarian intervention justified by international law, the Government of the Kingdom of Belgium will also plead, in the alternative, that there is a state of necessity.

The state of necessity

The notion of a state of necessity, which is enshrined in all branches of the law, is unquestionably acknowledged in international law; and the draft Article 33 proposed by the International Law Commission reflects this.

Allow me to suggest a definition to the Court: what is a state of necessity? A state of necessity is the cause which justifies the violation of a binding rule in order to safeguard, in face of grave and imminent peril, values which are higher than those protected by the rule which has been breached. Let me review the elements of this definition one at a time and set them against the case we are dealing with today.

First, what rule has been breached? We do not accept that any rule has been breached. However, for the sake of argument, let us say that it is the rule prohibiting the use of force. Where is the imminent peril, the grave and imminent peril? There it was - no doubt about it - at the time of the armed intervention; there it is still, the humanitarian catastrophe recorded in the resolutions of the Security Council - an impending peril. What are the higher values which this intervention attempts to safeguard? They are rights of *jus cogens*. It is the collective security of an entire region. And the final element of a state of necessity, I almost forgot, is that the acts must be proportionate; the intervention must be proportional to the threat. The intervention is wholly in proportion to the gravity of the peril; it is limited to aerial bombardments directed solely and exclusively against the war machine of the aggressor and against its military-industrial complex.

The Court will see that this is a use of force which is utterly unlike the parallel drawn this morning by one of my esteemed opponents; a parallel with what was the *diktats* of the Nazi régime to its peaceful neighbours. The Kingdom of Belgium regrets to have to say that it finds such a parallel totally unacceptable, and apt to shock the civilized legal conscience. The situation is the total reverse. It is we, the member countries of NATO, democratic countries with freely elected governments, who find ourselves confronted by a régime which rejects the most fundamental values of humanity.

The balance of the interests concerned

I now return to a further element, to another criterion determining the granting of provisional measures, namely the balance of the interests concerned.

When the Court grants provisional measures, it may direct such measures against a single one of the States in dispute or it may address them bilaterally to both parties. It is very difficult to speculate as to what your decision will be. However, let us assume that the Court were to indicate provisional measures against both the applicant and the respondent State. You would hinder the humanitarian action but you would not stop severe and massive violations of fundamental rights from continuing in Kosovo.

Indeed, it is abundantly clear that the Federal Republic of Yugoslavia cares not one whit for the decisions of international agencies, be they political bodies, the Security Council, the General Assembly or even your Court. Let me just remind you of your own Orders: Orders dated 8 April 1993, 13 September 1993. Two Orders indicating provisional measures against the Federal Republic of Yugoslavia in the case of Bosnia against

Yugoslavia. What became of these Orders? Were they complied with? Were the provisional measures implemented? There are grave doubts on this score. Thus, the Court has indicated provisional measures against the Federal Republic of Yugoslavia, and it is known that Yugoslavia cheerfully ignores them, utterly ignores them, ignores these international decisions. You would run the risk of hampering an ongoing humanitarian operation which meets a desperate need. To indicate provisional measures is likely to be far more damaging than to refuse to do so. And at this point the Kingdom of Belgium respectfully urges the Court to weigh up the balance of the interests concerned.

Whether the alleged acts may be imputed to the Kingdom of Belgium

A further important point is whether the acts alleged against the Kingdom of Belgium are properly imputable to it, even if only apparently so. There has been talk of destruction, of damage to the environment, of the use of prohibited weapons, but nowhere have we seen evidence establishing prima facie that such facts are imputable to the military forces of the Kingdom of Belgium. In fact, the measures requested of the Court today serve a purely political and tactical objective. It is a tactical step designed to hinder initiatives under way at international level.

The purely political purpose of the request for provisional measures

Moreover, if the Court were to order provisional measures in this case, it would run the risk of prejudging the merits of the case. For let us see how the request of the applicant State is worded: "The Kingdom of Belgium shall cease immediately its acts of use of force and shall refrain from any act of threat or use of force against the Federal Republic of Yugoslavia." Yet this request, based on the premise that the acts concerned are illegal, necessarily prejudges their legality.

The measures as formulated are vague, so vague that it may be asked whether they are compatible with the concept of provisional measures. Once again, I repeat, a tactical, short-term advantage is being sought.

Let me sum up. Mr. President, Members of the Court, your jurisprudence on provisional measures is restrictive; the Court does not grant provisional measures lightly. Undoubtedly, in the past the Court has granted provisional measures in cases of armed conflict, that is true. However, the Kingdom of Belgium would point out that the case before you is fundamentally different from previous cases.

In the case of the Respondent, the Kingdom of Belgium, as I have sought to show, it cannot seriously be alleged that it has any intention whatsoever of committing genocide, or that it is actually committing genocide. Quite the reverse. We are therefore dealing with a case which is fundamentally different from the case of Bosnia against Yugoslavia, which the Court heard in 1990 *[sic]*.

Nor are we dealing with a frontier dispute or a case of assistance to rebels with the intention of destabilizing a régime, something which might constitute a threat to the security of the region. There is much more than that in this case. The Court is dealing with an intervention to save an entire population in peril, a population which is the victim of severe, widespread violations of its rights, rights which have the status of a norm of *jus cogens*. Were the Court to order this humanitarian policing action to stop, it would magnify the catastrophe and would create irreparable damage within this persecuted group of the population, damage which would be far more serious than that which NATO is inflicting on the aggressor's military-industrial complex and its war machine. It would weaken humanitarian action that is providing assistance to persons in danger. It would give a precious breathing space to a destructive system which is now on its knees. The Court would fall into the trap, and this is the risk, of becoming the instrument of a cunning strategist which is using all sorts of delaying tactics in order to escape its international commitments and to pursue its evil ends. The Court would render justice by refusing any kind of provisional measure. And the cause of human rights and of contemporary international law, the champion of the weak and the oppressed, would be enhanced. On-going military pressure on the oppressor, and recent diplomatic initiatives undertaken as a result of the G-8 summit, are converging. Pressure must be maintained, and continuing military pressure is a condition *sine qua non* of establishing peace in the region.

Thank you for your attention, and with your permission, Mr. President, I would like to give the floor to the Agent of the Government.

Le VICE-PRESIDENT, faisant fonction de président : Je vous remercie. Je donne la parole à Madame Raymonde Foucart-Kleynen.

Concluding remarks

Mrs. FOUCART-KLEYNEN: Mr. President, Members of the Court,

For all the reasons put forward by counsel, the Kingdom of Belgium requests the Court, without prejudice to the merits of the case:

- to declare the request for provisional measures submitted by the Federal Republic of Yugoslavia inadmissible on the grounds that the Court has not even a shred of jurisdiction to hear the case;

and, in any event,

- to state that there are no grounds for the indication of provisional measures:

first, because there is no trace of any element in the jurisprudence of the Court or in the general principles of international law which might justify provisional measures; and

second, because of the serious effects which such measures would have on the outcome of the humanitarian crisis instigated by the Federal Republic of Yugoslavia in Kosovo and in neighbouring countries.

I thank the Court for its gracious attention.

Le VICE-PRESIDENT, faisant fonction de président : Je vous remercie. La séance sera suspendue pendant quelques minutes et reprendra avec les observations du Canada.

L'audience est levée à 15h.55.